

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PREPARED FOOD PHOTOS, INC.,

Plaintiff,

– *against* –

EXECUTIVE DINING CLUB, INC. *and*
GEM CATERING INC. d/b/a CAFÉ
GUSTO,

Defendants.

ORDER

22-cv-9446 (ER)

RAMOS, D.J.:

On November 4, 2022, Prepared Food Photos, Inc. filed a complaint against Executive Dining Club, Inc. (“EDC”), a website management and marketing company, for copyright infringement related to a photograph of food it owns, “ColdCutAsst031.” Doc. 1. Prepared Food Photos filed its First Amended Complaint (FAC) on December 1, 2022, adding defendant Gem Catering, Inc., a New York catering service doing business as Café Gusto (“Café Gusto”). Doc. 9. The FAC was served on Café Gusto by personally serving an individual who was authorized to accept service on behalf of Café Gusto. Doc. 12. The FAC was served upon EDC via U.S. Mail on December 20, 2022. Doc. 37-4. Neither defendant nor counsel for defendants have appeared in this matter.

Prepared Food Photos moved for default judgment on March 21, 2023. Doc. 28. An Order to Show Cause hearing was held on April 26, 2023. Default judgment was not entered at that time because Prepared Food Photos’ application for default judgment was not filed in accordance with the Court’s default judgment procedures. *See* Individual Practices of Judge Edgardo Ramos at 9. Prepared Food Photos was directed to re-submit a full application and provide the legal authority for the propriety of serving an amended complaint by mail on a party who has not appeared in an action.

On May 4, 2023, Prepared Food Photos moved for default judgement (Doc. 35) in accordance with this Court's Individual Practices, however, Prepared Food Photos did not comply with the Court's directive to provide the legal authority for serving the amended complaint by mail on a party that has not appeared. Prepared Food Photos is directed to comply with the Court's directive. In the absence of providing such legal authority, default judgment will not be entered.

It is SO ORDERED.

Dated: May 24, 2023
New York, New York

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is written above a horizontal line.

EDGARDO RAMOS, U.S.D.J.